

Group V: Claims 32 and 33, drawn to an animal feedstuffs additive; and

Group VI: Claim 34, drawn to a method for identifying RNA, cDNA, and DNA that encode for homocysteine methyltransferase II comprising contacting the RNA, cDNA, or DNA with hybridization probes.

Applicants elect, with traverse, Group I, Claims 1-6, 8, and 9, for further prosecution.

It is Applicants understanding that the Restriction Requirement issued January 29, 2004 replaces that which was issued on February 7, 2002.

Applicants note that the claims of Group V are directly dependent from the claims of Group IV and the claims of Group VI are directly dependent from the claims of Group I, as such these groups are not separable.

Citing MPEP §806.04 and MPEP §808.01, the Office has characterized the inventions of Groups I, II, and V; Groups III, IV, and VI; Groups V and VI; and Groups II and V, as unrelated. According to MPEP 808.01, if inventions are held unrelated, it must be shown that they are not disclosed as capable of use together. However, the office has merely stated its conclusion without providing sufficient reasons or examples. Thus, the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement and it should be withdrawn.

In regard to Groups II and III/IV and Groups I and VI, the Office has characterized the relationship between these two groups as product and process of use. Citing MPEP §806.05(h), the Office suggests that the claimed composition can be used in a materially different processes. However, there is no evidence of record to show that the claimed products are useful as the Office has alleged. In addition, the Office has failed to show that its alleged uses of the claimed products are materially different from what is claimed. Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable, and it should therefore be withdrawn.

In regard to Groups IV and V, the Office has characterized the relationship between these two groups as "process of making and product made." Citing MPEP §806.05(f), the Office suggests the product as claimed can be made by another and materially different process such as "a chemical synthesis process to make a L-methionine containing animal feedstuffs". However, there is no evidence of record to show that the claimed products could be made as the Office has alleged, if, in fact, the product of Group V *is* made by the process of Group IV. Moreover, the Office has failed to show that the alleged process of making is materially different from the claimed process. Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable, and it should therefore be withdrawn.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office, particularly in view of the fact that the claims of Group V are directly dependent from the claims of Group IV and the claims of Group VI are directly dependent from the claims of Group I.

For the reasons set forth above, Applicants contend that the Restriction Requirement is improper and should be withdrawn.

Additionally, MPEP §821.04 states:

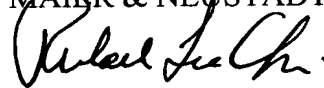
...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants respectfully submit that should the elected group be found allowable, non-elected process claims should be rejoined.

Applicants further submit that this application is now in condition for examination on the merits and an early notification to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jean-Paul Lavalleye
Attorney of Record
Registration No. 31,451

Vincent K. Shier, Ph.D.
Registration No. 50,552

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
NFO/VKS

Richard L. Chinn, Ph.D.
Registration No. 34,305